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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/578,833

05/10/2006

Georgios Psaros

P06,0153

3781

26574

7590

01/26/2009

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PATENT DEPARTMENT  
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EXAMINER

BLIZZARD, CHRISTOPHER JAMES

ART UNIT

PAPER NUMBER

4185

MAIL DATE

DELIVERY MODE

01/26/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                         |                                         |  |
|------------------------------|-----------------------------------------|-----------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/578,833    | <b>Applicant(s)</b><br>PSAROS, GEORGIOS |  |
|                              | <b>Examiner</b><br>CHRISTOPHER BLIZZARD | <b>Art Unit</b><br>4185                 |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                            | 6) <input checked="" type="checkbox"/> Other: <u>NPL</u>          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-7** are rejected under 35 U.S.C. 102(b) as being anticipated by **Westenskow (US 4,127,121)**.

**Regarding claim 1**, Westenskow et al. discloses a method for reducing the carbon dioxide content in a dead volume in an apparatus designed to be connected to the respiratory system of a patient, comprising the steps of generating a flow of gas from an outlet associated with the dead volume; conducting the gas through an absorber (10) for carbon dioxide; and retuning the gas that passed the absorber to an inlet associated with the dead volume (fig. 1).

**Regarding claim 2**, Westenskow et al. discloses a method further comprising continuously generating the gas flow, but means of a air circulator (7) (fig. 1) (column 3, lines 21-22).

**Regarding claim 3**, Westenskow et al. discloses a method further comprising conducting the gas flow past a gas monitor (3) (fig. 1)for at least one

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of qualitative and quantitative determination of a partial component in the gas (column 3, lines 25-29).

**Regarding claim 4**, Westenskow et al. discloses a device for reducing the carbon dioxide content in a dead volume in an apparatus adapted to be connected to the respiratory pathway of a patient, comprising; a flow generator (7) for generating a flow of gas from an outlet associated with the dead volume to an inlet associated with the dead volume (fig. 1), and an absorber for carbon dioxide (10) arranged in series with the flow generator for absorption of carbon dioxide out of the flow of gas.

**Regarding claim 5**, Westenskow et al. discloses a device comprising a gas monitor (3) connected in series with the flow generator (7) and the absorber (10) (fig. 1) for at least one of qualitative and quantitative determination of a partial component in the gas (column 3, lines 25-29).

**Regarding claim 6**, Westenskow et al. discloses a device comprising a gas conditioner, in the form of a feedback control circuit used to replace oxygen in the system (fig. 1) (column 3, lines 25-26), connected in series with the flow generator and the absorber for conditioning of the flowing gas.

**Regarding claim 7**, Westenskow et al. discloses a device wherein a gas conditioner is a gasifier (13) (fig. 1) for liquid anesthetic (column 3, lines 41-56).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Perhag (The Reflector)** in view of **Westenskow (US 4,127,121)**.

**Regarding claim 8**, Perhag et al. discloses an anesthesia apparatus comprising a reflector for adsorption and desorption of anesthetic arranged between a first end in gaseous connection with a ventilator and a second end in gaseous connection with the respiratory system of a patient (fig. 1), but fails to disclose an outlet arranged between the first end and the reflector, an outlet arranged between the second end and the reflector, a flow generator for generating a flow of gas from the outlet to the inlet and an carbon dioxide absorber arranged in series with the flow generator for absorption of carbon dioxide out of the flow of gas.

However, Westenskow disclose and a flow generator (7) for generating a flow of gas from the outlet to the inlet and a carbon dioxide absorber (10) arranged in series with the flow generator for absorption of carbon dioxide out of the flow of gas.

5. It would have been obvious to one of ordinary skill the art to modify the invention of Perhag to include a flow generator in series with a carbon dioxide absorber as taught by Westenskow since doing so would provide a flow of air over the absorber to ensure that absorption takes place.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Blizzard whose telephone number is (571)-270-7138. The examiner can normally be reached on Monday-Thursday 7:30 AM - 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrell McKinnon can be reached on (571) 272-4797.

1/13/09  
/C. B./  
Examiner, Art Unit 4185

/Terrell L Mckinnon/

Supervisory Patent Examiner, Art Unit 4185